

**INSPECTIONS AND APPEALS DEPARTMENT[481]**

**Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code sections 231B.2(1), 231C.3(1), and 231D.2(2), the Department of Inspections and Appeals hereby gives Notice of Intended Action to amend Chapter 68, “Elder Group Homes,” Chapter 69, “Assisted Living Programs,” and Chapter 70, “Adult Day Services,” Iowa Administrative Code.

These amendments clarify the contents of an application for certification and the process for notifying the Department of a change of ownership of a program and add a definition for “change of ownership.” These amendments require assisted living programs, elder group homes, and adult day services programs to notify the Department when a change of program manager occurs.

The Department does not believe that the proposed amendments pose a financial hardship on any regulated entity or individual.

Any interested person may make written suggestions or comments on the proposed amendments on or before February 24, 2015. Such written materials should be addressed to the Director, Department of Inspections and Appeals, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0083; faxed to (515)242-6863; or e-mailed to [David.Werning@dia.iowa.gov](mailto:David.Werning@dia.iowa.gov).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code sections 231B.2(1), 231C.3(1), and 231D.2(2).

The following amendments are proposed.

ITEM 1. Adopt the following **new** definition of “Change of ownership” in rule **481—68.1(231B)**:

“*Change of ownership*” means the purchase, transfer, assignment or lease of a certified elder group home and includes a change in the management company responsible for the day-to-day operation of the program, if the management company is ultimately responsible for any enforcement action taken by the department.

ITEM 2. Amend subrule 68.4(1) as follows:

**68.4(1)** A list that includes the names, addresses, and percentage of stock, shares, partnership or other equity interest of all officers, members of the board of directors and trustees ~~and of the designated manager~~, as well as stockholders, partners or any individuals who have greater than a 5 ~~10~~ percent equity interest in ~~the program~~. each of the following, as applicable:

a. The real estate owner or lessor;

b. The lessee; and

c. The management company responsible for the day-to-day operation of the program.

The program shall notify the department of any changes in the list ~~within~~ no later than ten working days ~~of the~~ after the effective date of the change.

ITEM 3. Amend subrule 68.4(2) as follows:

**68.4(2)** A statement ~~affirming that~~ disclosing whether the individuals listed in subrule 68.4(1) have ~~not~~ been convicted of a felony or an aggravated or serious misdemeanor or found to be in violation of the child abuse or dependent adult abuse code in laws of any state.

ITEM 4. Amend subrule 68.4(3) as follows:

**68.4(3)** A statement disclosing whether any of the individuals listed in subrule 68.4(1) have or have had an ownership interest in an assisted living program, adult day services program, elder group home,

home health agency, licensed health care facility as defined in Iowa Code section 135C.1<sub>2</sub>, or licensed hospital as defined in Iowa Code section 135B.1, ~~or a boarding home as defined in 2009 Iowa Acts, Senate File 484, section 3 (to be codified as Iowa Code Supplement section 135O.1)~~, which has been closed in any state due to removal of program, agency, or facility licensure or certification or due to involuntary termination from participation in either the Medicaid or Medicare program; or have been found to have failed to provide adequate protection or services ~~for tenants~~ to prevent abuse or neglect of residents, patients, tenants or participants.

ITEM 5. Rescind rule 481—68.10(231B) and adopt the following new rule in lieu thereof:

**481—68.10(231B) Change of ownership—notification to the department.**

**68.10(1)** Certification, unless conditionally issued, suspended or revoked, may be transferable. If the program's certification has been conditionally issued, the department must approve a change of ownership prior to the transfer of the certification.

**68.10(2)** In order to transfer certification, the applicant must:

*a.* Meet the requirements of the rules, regulations and standards contained in Iowa Code chapter 231B and 481—Chapter 67 and this chapter; and

*b.* At least 30 days prior to the change of ownership of the program, make application on forms provided by the department.

**68.10(3)** The department may conduct a monitoring within 90 days following a change in the program's ownership to ensure that the program complies with applicable requirements. If a regulatory insufficiency is found, the department shall take any necessary enforcement action authorized by applicable requirements.

ITEM 6. Adopt the following new subrule 68.19(5):

**68.19(5)** The program shall notify the department in writing within ten business days of a change in the program's manager.

ITEM 7. Adopt the following new definition of "Change of ownership" in rule **481—69.1(231C)**:

*"Change of ownership"* means the purchase, transfer, assignment or lease of a certified assisted living program and includes a change in the management company responsible for the day-to-day operation of the program, if the management company is ultimately responsible for any enforcement action taken by the department.

ITEM 8. Amend subrule 69.4(1) as follows:

**69.4(1)** A list that includes the names, addresses, and percentage of stock, shares, partnership or other equity interest of all officers, members of the board of directors and trustees ~~and of the designated manager~~, as well as stockholders, partners or any individuals who have greater than a 5 10 percent equity interest ~~in the program~~. each of the following, as applicable:

*a.* The real estate owner or lessor;

*b.* The lessee; and

*c.* The management company responsible for the day-to-day operation of the program.

The program shall notify the department of any changes in the list ~~within~~ no later than ten working days ~~of after~~ the effective date of the change.

ITEM 9. Amend subrule 69.4(2) as follows:

**69.4(2)** A statement ~~affirming that~~ disclosing whether the individuals listed in subrule 69.4(1) have ~~not~~ been convicted of a felony or an aggravated or serious misdemeanor or found to be in violation of the child abuse or dependent adult abuse code in laws of any state.

ITEM 10. Amend subrule 69.4(3) as follows:

**69.4(3)** A statement disclosing whether any of the individuals listed in subrule 69.4(1) have or have had an ownership interest in an assisted living program, adult day services program, elder group home, home health agency, licensed health care facility as defined in Iowa Code section 135C.1<sub>2</sub>, or licensed hospital as defined in Iowa Code section 135B.1, ~~or a boarding home as defined in 2009 Iowa Acts, Senate File 484, section 3 (to be codified as Iowa Code Supplement section 135O.1)~~, which has been

closed in any state due to removal of program, agency, or facility licensure, certification, or registration or due to involuntary termination from participation in either the Medicaid or Medicare program; or have been found to have failed to provide adequate protection or services ~~for participants~~ to prevent abuse or neglect ~~of residents, patients, tenants or participants~~.

ITEM 11. Amend subrule 69.10(1) as follows:

**69.10(1)** A list that includes the names, addresses and percentage of stock, shares, partnership or other equity interest of all officers, members of the board of directors, and trustees ~~and of the designated manager~~, as well as stockholders, partners or any individuals who have greater than a 5 10 percent equity interest in ~~the program~~. each of the following, as applicable:

a. The real estate owner or lessor;

b. The lessee; and

c. The management company responsible for the day-to-day operation of the program.

The program shall notify the department of any changes in the list ~~within~~ no later than ten working days ~~of~~ after the effective date of the change.

ITEM 12. Amend subrule 69.10(2) as follows:

**69.10(2)** A statement ~~affirming that~~ disclosing whether the individuals listed in subrule 69.10(1) have ~~not~~ been convicted of a felony or an aggravated or serious misdemeanor or found to be in violation of the child abuse or dependent adult abuse code in laws of any state.

ITEM 13. Amend subrule 69.10(3) as follows:

**69.10(3)** A statement disclosing whether any of the individuals listed in subrule 69.10(1) have or have had an ownership interest in a program, adult day services program, elder group home, home health agency, licensed health care facility as defined under Iowa Code section 135C.1, or licensed hospital as defined under Iowa Code section 135B.1 ~~or a boarding home as defined in 2009 Iowa Acts, Senate File 484, section 3 (to be codified as Iowa Code Supplement section 135O.1)~~, which has been closed in any state due to removal of program, agency, or facility licensure or certification or due to involuntary termination from participation in either the Medicaid or Medicare program; or have been found to have failed to provide adequate protection or services ~~for tenants~~ to prevent abuse or neglect of residents, patients, tenants or participants.

ITEM 14. Rescind rule 481—69.17(231C) and adopt the following new rule in lieu thereof:

**481—69.17(31C) Change of ownership—notification to the department.**

**69.17(1)** Certification, unless conditionally issued, suspended or revoked, may be transferable. If the program's certification has been conditionally issued, the department must approve a change of ownership prior to the transfer of the certification.

**69.17(2)** In order to transfer certification, the applicant must:

a. Meet the requirements of the rules, regulations and standards contained in Iowa Code chapter 231C and 481—Chapter 67 and this chapter; and

b. At least 30 days prior to the change of ownership of the program, make application on forms provided by the department.

**69.17(3)** The department may conduct a monitoring within 90 days following a change in the program's ownership to ensure that the program complies with applicable requirements. If a regulatory insufficiency is found, the department shall take any necessary enforcement action authorized by applicable requirements.

ITEM 15. Adopt the following new subrule 69.29(7):

**69.29(7)** The program shall notify the department in writing within ten business days of a change in the program's manager.

ITEM 16. Adopt the following new definition of "Change of ownership" in rule **481—70.1(231D)**:

*"Change of ownership"* means the purchase, transfer, assignment or lease of a certified adult day services program and includes a change in the management company responsible for the day-to-day

operation of the program, if the management company is ultimately responsible for any enforcement action taken by the department.

ITEM 17. Amend subrule 70.4(1) as follows:

**70.4(1)** A list that includes the names, addresses, and percentage of stock, shares, partnership or other equity interest of all officers, members of the board of directors and trustees ~~and of the designated manager~~, as well as stockholders, partners or any individuals who have greater than a 5 10 percent equity interest in ~~the program~~. each of the following, as applicable:

a. The real estate owner or lessor;

b. The lessee; and

c. The management company responsible for the day-to-day operation of the program.

The program shall notify the department of any changes in the list ~~within~~ no later than ten working days ~~of~~ after the effective date of the change.

ITEM 18. Amend subrule 70.4(2) as follows:

**70.4(2)** A statement ~~affirming that~~ disclosing whether the individuals listed in subrule 70.4(1) have ~~not~~ been convicted of a felony or an aggravated or serious misdemeanor or found to be in violation of the child abuse or dependent adult abuse code in laws of any state.

ITEM 19. Amend subrule 70.4(3) as follows:

**70.4(3)** A statement disclosing whether any of the individuals listed in subrule 70.4(1) have or have had an ownership interest in an adult day services program, assisted living program, elder group home, home health agency, licensed health care facility as defined in Iowa Code section 135C.1<sub>2</sub> or licensed hospital as defined in Iowa Code section 135B.1 ~~or a boarding home as defined in 2009 Iowa Acts, Senate File 484, section 3 (to be codified as Iowa Code Supplement section 135O.1)~~, which has been closed in any state due to removal of program, agency, or facility licensure or certification or due to involuntary termination from participation in either the Medicaid or Medicare program; or have been found to have failed to provide adequate protection or services ~~for participants~~ to prevent abuse or neglect of residents, patients, tenants or participants.

ITEM 20. Amend subrule 70.10(1) as follows:

**70.10(1)** A list that includes the names, addresses and percentage of stock, shares, partnership or other equity interest of all officers, members of the board of directors, and trustees ~~and of the designated manager~~, as well as stockholders, partners or any individuals who have greater than a 5 10 percent equity interest in ~~the program~~. each of the following, as applicable:

a. The real estate owner or lessor;

b. The lessee; and

c. The management company responsible for the day-to-day operation of the program.

The program shall notify the department of any changes in the list ~~within~~ no later than ten working days ~~of~~ after the effective date of the change.

ITEM 21. Amend subrule 70.10(2) as follows:

**70.10(2)** A statement ~~affirming that~~ disclosing whether the individuals listed in subrule 70.10(1) have ~~not~~ been convicted of a felony or an aggravated or serious misdemeanor or found to be in violation of the child abuse or dependent adult abuse code in laws of any state.

ITEM 22. Amend subrule 70.10(3) as follows:

**70.10(3)** A statement disclosing whether any of the individuals listed in subrule 70.10(1) have or have had an ownership interest in an adult day services program, assisted living program, elder group home, home health agency, licensed health care facility as defined under Iowa Code section 135C.1<sub>2</sub> or licensed hospital as defined under Iowa Code section 135B.1 ~~or a boarding home as defined in 2009 Iowa Acts, Senate File 484, section 3 (to be codified as Iowa Code Supplement section 135O.1)~~, which has been closed in any state due to removal of program, agency, or facility licensure or certification or due to involuntary termination from participation in either the Medicaid or Medicare program; or have been found to have failed to provide adequate protection or services ~~for participants~~ to prevent abuse or neglect of residents, patients, tenants or participants.

ITEM 23. Rescind rule 481—70.17(231D) and adopt the following new rule in lieu thereof:

**481—70.17(231D) Change of ownership—notification to the department.**

**70.17(1)** Certification, unless conditionally issued, suspended or revoked, may be transferable. If the program's certification has been conditionally issued, the department must approve a change of ownership prior to the transfer of the certification.

**70.17(2)** In order to transfer certification, the applicant must:

*a.* Meet the requirements of the rules, regulations and standards contained in Iowa Code chapter 231D and 481—Chapter 67 and this chapter; and

*b.* At least 30 days prior to the change of ownership of the program, make application on forms provided by the department.

**70.17(3)** The department may conduct a monitoring within 90 days following a change in the program's ownership to ensure that the program complies with applicable requirements. If a regulatory insufficiency is found, the department shall take any necessary enforcement action authorized by applicable requirements.

ITEM 24. Adopt the following new subrule 70.29(4):

**70.29(4)** The program shall notify the department in writing within ten business days of a change in the program's manager.